

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT C.J. TUTTLE,

Plaintiff,

v.

Case No. 10-11221

TERRI LYNN LAND and MICHAEL FILDEY,

Defendants.

ORDER GOVERNING THE FORMAT OF BRIEFS: CITATION TO AUTHORITY

The parties in this case are directed to place any citations in the text of the brief, and avoid placing citations in footnotes.

The court acknowledges that limiting citations to footnotes is a format preferred by some authors, chiefly Bryan A. Garner, author of *Garner's Modern American Usage* and editor-in-chief of *Black's Law Dictionary*. This practice has been adopted by some attorneys, including Michigan's Attorney General, the office that the court anticipates participating in this litigation.

This court has previously made clear its preference for citations in the body of the brief. See *Mosholder v. Barnhardt*, No. 09-CV-11829, at 1 n.1 (E.D. Mich. Feb. 12, 2010) (notifying the Attorney General's office that "future filings in this judge's cases that confine case and statutory citations to footnotes will be stricken subject to refiling").

The practical reason underlying the court's preference was explained ten years ago in specific reaction to the Garner approach: "The obvious objection to footnotes [in opinions] is that they force the reader to interrupt the reading of the text with glances down to the bottom of the page. They prevent continuous reading. In doing so they

make the reader work harder for the same information.” Richard A. Posner, *Against Footnotes*, 38 Ct. Rev.: The J. of the Am. Judges Ass’n 24 (2001). What Judge Posner observed about opinions applies equally to briefs. Moreover, frequent use of footnotes enables a party to circumvent the page restrictions on briefs because the spacing requirements of the Local Rules do not apply to footnotes. See E.D. Mich. LR 5.1(a)(2).

Accordingly, in all submissions to the court, the parties are DIRECTED to place citations to authority in the text, not in footnotes.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: April 19, 2010

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, April 19, 2010, by electronic and/or ordinary mail.

S/Lisa G. Wagner
Case Manager and Deputy Clerk
(313) 234-5522